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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,408

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Christophe Pierre Girard

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EXAMINER

BATTULA, PRADEEP CHOUDARY

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

02/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,408	Applicant(s) GIRARD, CHRISTOPHE PIERRE	
	Examiner PRADEEP C. BATTULA	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 8, 2008 and January 21, 2009 have been entered.

Election/Restrictions

Newly submitted claim 15 – 19 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the new claims are related to a method of storing and accessing notebook pages in a document folder where only a document filing folder was originally presented

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 15 – 19 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 3, 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herlitz in view of Ho (U.S. 6,354,486).

In regards to Claim 1, Herlitz discloses a document filing folder 20 comprising: a cover 20 (Figure 1) including an (Figure 2; page on right of spiral) and a posterior sheet (Figure 2; page on left of spiral); a binding 18a joining the anterior and posterior sheets (Figure 2, Item 18a); and notebook pages securely connected to the binding (Figure 1; spiral binding is well known to securely bind sheets; Novelty section of previously provided attachments states the binding holds notebook pages), wherein a first sheet of the anterior and posterior sheets includes: first flap 33 located along the lower edge of the first sheet (Figure 2, Item 33); a second flap 32 extending along an entire lateral edge of the first sheet (Figure 2, Item 32 is shown to have connection along the entire lateral edge), Furthermore the flaps are capable of retaining pages which are bound by the spiral since section 35 of the flaps are glued to one another and therefore allowing flexing for insertion of pages (Attachment, Novelty section; sheets inside the notebook are disclosed and therefore notebook pages and are able to be stored in the formed pocket due to the flexibility), wherein the flaps are adhered one on top of the other (Figure 2, Items 32, 33), toward the interior side of the first sheet, with the notebook

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pages capable of being held under the flaps folded towards the interior side of the first sheet (Attachment, Novelty Section; pages can be stored in the folded sections nothing is to prevent the bound papers from being inserted since the pocket is capable of holding the bound pages).

Herlitz does not disclose wherein the first sheet of the anterior and posterior sheets includes: a flap respectively located along opposed upper edge of the first sheet; each of the first and second and third flaps having a first position folded, successively, other, towards an interior side of the first sheet, and each of the first, second and third flaps having a second position folded away from an interior side of the first sheet, wherein the notebook pages are in storage under the first and second and third flaps that are each in the first position and the notebook pages are fully accessible from the first, second and third flaps that are each in the second position; and closing means for keeping the filing folder closed with the notebook pages between the anterior and posterior sheets, the closing means including a rubber band attached to the first sheet, sliding relative to the first sheet through eyelets, and which can be placed over at least one corner of a second of the anterior sheet and the posterior sheet or which can be placed over the second sheet parallel to the binding.

Ho teaches of a document filing folder (Column 2, Lines 41 – 45; Figures 3 & 4) comprising: a cover including an anterior sheet 14 and a posterior sheet 15 (Column 2, Lines 41 – 45; Figure 3, Items 14, 15); wherein a first sheet of the anterior and posterior sheets includes: first and second flaps 17 respectively located along opposed lower and upper edges of the first sheet (Column 2, Lines 41 – 45; Figure 3, Items 17 shown along

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the entire length of the upper and lower edge); a third flap extending along an entire lateral edge of the first sheet 16 (Column 2, Lines 41 – 45; Figure 3, Item 16), each of the first and second and third flaps having a first position folded, successively, other, towards an interior side of the first sheet (Column 3, Lines 26 – 41; Figure 7 shows the flaps in the first position. Furthermore the flaps are structurally capable of being folded in any particular order; Figure 2 also shows the flaps in the first position where the flaps are not connected to one another in any manner), and each of the first, second and third flaps having a second position folded away from an interior side of the first sheet (Figure 3; Column 3, Lines 26 – 41 teaches of the attachment and Figure 7 shows this. The flaps can clearly be attached and detached; Figure 1 shows the flaps without the attachment structures in the unfolded state), wherein the notebook pages 20 are in storage under the first and second and third flaps that are each in the first position (Column 3, Lines 26 – 41; Figures 6 & 7, Item 20) and the notebook pages are fully accessible from the first, second and third flaps that are each in the second position (Figures 1 & 3); and closing means 153 for keeping the filing folder closed with the notebook pages between the anterior and posterior sheets (Column 2, Lines 41 – 45; Column 4, Lines 1 – 19; Figure 3, Item 153; Figure 4, Item 153), the closing means including a rubber band attached to the first sheet (Column 2, Lines 41 – 45; Figure 3, Item 153), sliding relative to the first sheet through eyelets 150 (Column 4, Lines 10 – 13), and which can be placed over at least one corner of a second of the anterior sheet and the posterior sheet or which can be placed over the second sheet parallel to the binding (Column 4, Lines 1 – 19; Figure 4, Item 152). Therefore it would have been

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obvious to a person having ordinary skill in the art at the time the invention was made to provide the folder of Herlitz with the flaps and closing mechanism of Ho in order to provide a folder capable of the folder flaps to be adjusted to hold stacks of sheets in increasing size and securely hold the holder closed (Column 1, Lines 38 – 40)

In regards to Claim 2, Herlitz modified by Ho further discloses wherein the first sheet with the flaps is the posterior sheet (Figure 2 left of spiral in Herlitz; Figure 3, Item 15 in Ho).

In regards to Claims 3 and 6, Herlitz modified by Ho further discloses wherein the binding includes a spiral 18a (Figure 3, Item 18a; Herlitz), which therefore the notebook pages to be stored flat against the first sheet with the flaps folded toward the interior side of the first sheet with notebook pages under the first and second flaps.

In regards to Claim 13, Herlitz modified by Ho further discloses a structure capable of performing a function wherein a first portion of the notebook pages are in storage under the first and second flaps that are both in the first position (pages coming from the spiral can be held in between the sheets [Figure 3]) and a second portion of the notebook pages are accessible and are positioned above the first portion of the notebook pages and above the first and second flaps that are both in the first position (A portion of sheets can be held in the flaps and then another portion can go on top of the portion in the sheets. This is possible through the use of the spiral binding) and the first portion of the notebook pages is accessible from the first and second flaps that are both in the second position (They are fully accessible by opening/detachment of the flaps).

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Furthermore, as discussed in the Interview held on January 8, 2009, the exact method of using the notebook is not required by product claims and the product merely needs to be capable of being used by such a method.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRADEEP C. BATTULA whose telephone number is (571)272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C. B./
Examiner, Art Unit 3725
February 5, 2009

/Dana Ross/
Supervisory Patent Examiner, Art Unit 3725